

[Cite as *State v. Cataline*, 2009-Ohio-3459.]

Court of Appeals of Ohio

EIGHTH APPELLATE DISTRICT
COUNTY OF CUYAHOGA

JOURNAL ENTRY AND OPINION
No. 91855

STATE OF OHIO

PLAINTIFF-APPELLEE

vs.

MARK CATALINE

DEFENDANT-APPELLANT

**JUDGMENT:
REVERSED AND REMANDED**

Criminal Appeal from the
Cuyahoga County Court of Common Pleas
Case Nos. CR-506805 and CR-507567

BEFORE: Stewart, J., Blackmon, P.J., and Celebrezze, J.

RELEASED: July 16, 2009

JOURNALIZED:

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N.B. This entry is an announcement of the court's decision. See App.R. 22(B) and 26(A); Loc.App.R. 22. This decision will be journalized and will become the judgment and order of the court pursuant to App.R. 22(C) unless a motion for reconsideration with supporting brief, per App.R. 26(A), is filed within ten (10) days of the announcement of the court's decision. The time period for review by the Supreme Court of Ohio shall begin to run upon the journalization of this court's announcement of decision by the clerk per App.R. 22(C). See, also, S.Ct. Prac.R. II, Section 2(A)(1).

MELODY J. STEWART, J.:

{¶ 1} Defendant-appellant, Mark Cataline, entered guilty pleas in two separate criminal cases. In CR-506805, he pleaded guilty to one count of domestic violence; in CR-507567, he pleaded guilty to one count of breaking and entering and one count of theft. The court sentenced Cataline to a one-year prison term for the domestic violence count in CR-506805. In CR-507567, the court sentenced Cataline to a six-month sentence for breaking and entering and a one-year sentence for theft. The sentences in CR-507567 were to be served concurrently, but consecutive to the one-year term in CR-506805, for a total prison term of two years. In the court's sentencing entry however, it ordered the prison terms in CR-507567 to be served consecutively to each other, for a total prison term of two and one-half years. Cataline complains that the court's sentencing error does not reflect the sentence imposed by the court during sentencing.

{¶ 2} The state concedes the assignment. Our review of the sentencing transcript confirms the court's error. During sentencing, the court stated:

{¶ 3} "Case 506805, domestic violence, it is the judgment of this Court that you would serve 1 year at Lorain Correctional. With respect to 507567, it is the judgment of this Court you would serve 1 year at Lorain Correctional. That

is a 1 year sentence -- 6-month sentence on Count 1, 1-year sentence on Count 2. Those 1-year sentences will run consecutive to each other for a total of 2 years.”

{¶ 4} When announcing sentence in CR-507567, the court plainly intended to run the one-year and six-month terms concurrent to each other, and that those concurrent sentences would be served consecutively to the one-year sentence in CR-506805. We therefore sustain the assignment of error and remand with instructions for the court to amend its journal entry to reflect the sentence announced during sentencing. See *State v. Sneed*, Cuyahoga App. No. 91414, 2008-Ohio-5247, ¶13.

{¶ 5} This cause is reversed and remanded for proceedings consistent with this opinion.

It is ordered that appellant recover of appellee his costs herein taxed.

It is ordered that a special mandate be sent to the Cuyahoga County Court of Common Pleas to carry this judgment into execution.

A certified copy of this entry shall constitute the mandate pursuant to Rule 27 of the Rules of Appellate Procedure.

MELODY J. STEWART, JUDGE

PATRICIA ANN BLACKMON, P.J., and
FRANK D. CELEBREZZE, JR., J., CONCUR